UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,426	07/29/2003	Rand B. Nickerson	067543.0184	7833

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BAKER BOTTS L.L.P. 2001 Ross Avenue Dallas, TX 75201-2980	DWIVEDI, MAHESH H

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/630,426	NICKERSON ET AL.
	Examiner	Art Unit
	Mahesh H. Dwivedi	2168

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *04 April 2007*.

2a) ☐ This action is **FINAL.**   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-34* is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-34* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☒ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on *29 July 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All   b)☐ Some * c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Response to Appeal Brief

1.   In view of the Appeal Brief filed on 04 April 2007, PROSECUTION IS HEREBY REOPENED. A new ground of rejection set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Requirement for Information under 37 CFR 1.105

2.   The Examiner has determined that it is reasonable necessary to the examination of the instant application to provide the following information. The requirement is applicable to the parties listed under 37 CFR 1.56 (c). These are: (1) Each inventor named in the application; (2) Each attorney or agent who prepares or prosecutes the application; (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the invention.

What is being Requested:

(1) The article entitled "Best Practices in Capturing Web User Feedback", (see retrieved webpage of www.opinionlab.com for 04/18/2007 under White Paper section).

(2) Any documentation on the software "24/7 Metric" (see pages 24-37, for specific examples).

Responding to the Request:

In responding to those requirements that require copies of documents, where the document is a bound text or a single article over 50 pages, the requirement may be met by providing copies of those pages that provide the particular subject matter indicated in the requirement.

The fee and certification under 37 CFR 1.97 are waived for those documents submitted in response to this requirement.

This requirement is subject to the provisions of 37 CFR 1.134, 1.135 and 1.136 and has shortened statutory period of <u>TWO MONTHS.</u> Extensions of this time period may be granted under 37 CFR 1.136(a).

Any inquiry concerning this communication should be directed to Mahesh Dwivedi at telephone number (571) 272-2731.

Specification

3.   The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claim 23 recites "the software embodied in media". However, the specification of the instant application does not define nor explain what media constitutes.

Claim Rejections - 35 USC § 101

4.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5.   Claims 1-11 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The examiner specifically points to **"A system...the system comprising: first software"** as being directed towards nonstatutory subject matter.

The claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. They are, at best, function descriptive material *per se*.

6.   Claims 1-11 are rejected under 35 U.S.C. 101 as being directed non-statutory subject matter. The language of the claim raises a question as to whether the claim is directed merely to an environment or machine which would result in a practical

application producing a concrete useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

Software or program can be stored on a medium and/or executed by a computer. In other words, software must be computer readable. The use of computer is not evident in these claims.

7.   Claims 23-33 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The examiner specifically points to **"Software for providing substantially...the software embodied in media"** as being directed towards nonstatutory subject matter.

The claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. They are, at best, function descriptive material *per se*.

8.   Claims 23-33 are rejected under 35 U.S.C. 101 as being directed non-statutory subject matter. The language of the claim raises a question as to whether the claim is directed merely to an environment or machine which would result in a practical application producing a concrete useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

Software or program can be stored on a medium and/or executed by a computer. In other words, software must be computer readable. The use of computer is not evident in these claims.

9.   **For your reference, below is a section from MPEP 2105:**

(a) Functional Descriptive Material: "Data Structures" Representing Descriptive Material Per Se or Computer Programs Representing Computer Listings Per Se

Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. See, e.g., Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and

other claimed aspects of the invention which permit the data structure's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory. Similarly, computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. Accordingly, it is important to distinguish claims that define descriptive material per se from claims that define statutory inventions. Computer programs are often recited as part of a claim. Office personnel should determine whether the computer program is being claimed as part of a otherwise statutory manufacture or machine. In such a case, the claim remains statutory irrespective of the fact that a computer program is included in the claim. The same result occurs when a computer program is used in a computerized process where the computer executes the instructions set forth in the Computer program. Only when the claimed invention taken as a whole is directed to a mere program listing, i.e., to only its description or expression, is it descriptive material per se and hence nonstatutory.

Since a computer program is merely a set of instructions capable of being executed by a computer, the computer program itself is not a process and Office personnel should treat a claim for a computer program, without the computer-readable medium needed to realize the computer program's functionality, as nonstatutory functional descriptive material. When a computer program is claimed in a process where the computer is executing the computer program's

instructions, Office personnel should treat the claim as a process claim. See paragraph IV.B.2(b)I below. When a computer program is recited in conjunction with a physical structure, such as a computer memory, Office personnel should treat the claim as a product claim.

10. Claim 34 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The examiner specifically points to **"A system for providing...the system comprising"** as being directed towards nonstatutory subject matter.

11. The claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. They are, at best, function descriptive material *per se*.

To expedite a complete examination of the instant application, the claims rejected under 35 U.S.C. 101 (nonstatutory) above are further rejected as set forth below in anticipation of applicant amending these claims to place them within the four categories of invention.

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1-34 are rejected under 35 U.S.C. 102(b) as being anticipated by **opinionlab** (website retrieved product dated 06/05/2001)

14. Regarding claim 1, **opinionlab** teaches a system comprising:

A) first software associated with a particular web page of a website and operable to collect information concerning user interaction with the particular web page (Pages 24, 28, and 36); and

B) second software associated with the particular web page operable to: receive, from a website owner who has accessed the particular web page using a web browser while the particular web page is viewable within a browser window of the web browser, input indicating a desire to access the collected information concerning user interaction with the particular web page (Pages 28-30, 32, 48, and 70);

C) determine whether the website owner is authorized to access the collected information concerning user interaction with the particular web page (Page 26); and

D) if the website owner is authorized to access the collected information concerning user interaction with the particular web page: generate a viewable user interface providing substantially real-time access to the collected information concerning user interaction with the particular web page (Pages 24, 28-30, 32, 48, and 70); and

E) to provide the website owner substantially real-time access to the collected information concerning user interaction with the particular web page, present the viewable user interface to the website owner in substantially real-time in response to the input received from the website owner while the particular web page was viewable within the browser window of the web browser (Pages 28-30, 32, 48, and 70).

The examiner notes that **opinionlab** teaches **"first software associated with a particular web page of a website and operable to collect information concerning user interaction with the particular web page"** as "The purpose of the 24/7 Metric is…To allow multiple stakeholders to analyze real-time, continuous user feedback at the page-level in order to optimize the user experience" (Page 24) and "the O-Metric Report provides a scan of your website. The graphic shows each page of the website as a line on the graph. Green lines represent web pages that have been rated positively and red lines represent web pages that have been rated negatively" (Page 28). The examiner further notes that **opinionlab** teaches **"second software associated with the particular web page operable to: receive, from a website owner who has accessed the particular web page using a web browser while the particular web page is viewable within a browser window of the web browser, input indicating a desire to access the collected information concerning user interaction with the particular web page"** as "The page Viewer allows direct access to page-level ratings from

whatever page you are currently viewing. Here's how it works: From any page of the website, you simply launch a local version of the Page Viewer application. You then login with your password. And finally, you tell the system what timeframe for which to analyze the report" (Page 32). The examiner further notes that Page 48 clearly depicts a screenshot of the Page Viewer. The examiner further notes that **opinionlab** teaches **"determine whether the website owner is authorized to access the collected information concerning user interaction with the particular web page"** as "you first need to log-in to OpinionLab's O'Zone, OpinionLab's report generating system" (Page 26). The examiner further notes that **opinionlab** teaches **"if the website owner is authorized to access the collected information concerning user interaction with the particular web page: generate a viewable user interface providing substantially real-time access to the collected information concerning user interaction with the particular web page"** as "The tools then generates real-time reports of page specific ratings and comments" (Page 48) The examiner further notes that **opinionlab** teaches **"to provide the website owner substantially real-time access to the collected information concerning user interaction with the particular web page, present the viewable user interface to the website owner in substantially real-time in response to the input received from the website owner while the particular web page was viewable within the browser window of the web browser"** as "The page Viewer allows direct access to page-level ratings from whatever page you are currently viewing. Here's how it works: From any page of the website, you simply launch a local version of the Page Viewer application. You then login with your password. And finally, you tell the system what timeframe for which to analyze the report" (Page 32).

Regarding claims 2, 13, and 24 **opinionlab** further teaches a system, method, and software comprising:
A) receive a password from the website owner (Page 26); and

B) to determine whether the website owner is authorized to access the collected information concerning user interaction with the particular web page, determine whether the password received from the website owner is valid Page 26).

The examiner notes that **opinionlab** teaches **"receive a password from the website owner"** as "you first need to log-in to OpinionLab's O'Zone, OpinionLab's report generating system" (Page 26). The examiner further notes that **opinionlab** teaches **"to determine whether the website owner is authorized to access the collected information concerning user interaction with the particular web page, determine whether the password received from the website owner is valid"** "you first need to log-in to OpinionLab's O'Zone, OpinionLab's report generating system" (Page 26).

Regarding claims 3, 14, and 25, **opinionlab** further teaches a system, method, and software comprising:
A) receive, from the website owner, one or more specified filter criteria applicable to the collected information concerning user interaction with the particular web page (Pages 27-28); and
B) filter the collected information concerning user interaction with the particular web page according to the specified filter criteria such that the website owner is presented only particular collected information concerning user interaction with the particular web page matching the specified filter criteria (Pages 27-28).

The examiner notes that **opinionlab** teaches **"receive, from the website owner, one or more specified filter criteria applicable to the collected information concerning user interaction with the particular web page"** as "Once logged in, you are able to review previously run, archived O-Metric Reports or to generate a new O-Metric Report" (Page 27). The examiner further notes that the screenshot on Page 27 clearly shows filter criteria inputted from a user (see dates). The examiner further notes that **opinionlab** teaches **"filter the collected information concerning user interaction with the particular web page according to the specified filter criteria such that the website owner is presented only particular collected information**

concerning user interaction with the particular web page matching the specified filter criteria" as "Once logged in, you are able to review previously run, archived O-Metric Reports or to generate a new O-Metric Report" (Page 27). The examiner further notes that the screenshot on Page 28 clearly shows a retrieved webpage generated report for a specified date range.

Regarding claims 4, 15, and 26, **opinionlab** further teaches a system, method, and software comprising:

A)   wherein at least one of the filter criteria comprises a time frame associated with the collected information concerning user interaction with the particular web page (Pages 27-28

The examiner notes that **opinionlab** teaches **"wherein at least one of the filter criteria comprises a time frame associated with the collected information concerning user interaction with the particular web page"** as "Once logged in, you are able to review previously run, archived O-Metric Reports or to generate a new O-Metric Report" (Page 27). The examiner further notes that the screenshot on Page 27 clearly shows filter criteria inputted from a user (see dates).

Regarding claims 5, 16, and 27 **opinionlab** further teaches a system, method, and software comprising:

A)   wherein the collected information concerning user interaction with the particular web page is user traffic information (Pages 28-29).

The examiner notes that Page 29 clearly shows traffic information (see number of ratings).

Regarding claims 6, 17, and 28, **opinionlab** further teaches a system, method, and software comprising:

A)   wherein the collected information concerning user interaction with the particular web page is user feedback information concerning the particular web page (Pages 28-29).

The examiner notes that **opinionlab** teaches **"wherein the collected information concerning user interaction with the particular web page is user feedback information concerning the particular web page"** as "the O-Metric Report provides a scan of your website. The graphic shows each page of the website as a line on the graph. Green lines represent web pages that have been rated positively and red lines represent web pages that have been rated negatively" (Page 27) and "you can list every page of your website that received a rating and sort them by the number of ratings received and the average rating for the page" (Page 28).

Regarding claims 7, 18, and 29, **opinionlab** further teaches a system, method, and software comprising:

A) generate a report of the collected user feedback information (Pages 28-30, 32, 48, and 70); and

B) present the report to the website owner to provide the website owner access to the collected user feedback information while the particular web page is viewable within the browser window of the web browser (Pages 28-30, 32, 48, and 70).

The examiner notes that **opinionlab** teaches **"generate a report of the collected user feedback information"** as "The page Viewer allows direct access to page-level ratings from whatever page you are currently viewing. Here's how it works: From any page of the website, you simply launch a local version of the Page Viewer application. You then login with your password. And finally, you tell the system what timeframe for which to analyze the report" (Page 32). The examiner further notes that Page 48 clearly depicts a screenshot of the Page Viewer. The examiner further notes that **opinionlab** teaches **"present the report to the website owner to provide the website owner access to the collected user feedback information while the particular web page is viewable within the browser window of the web browser"** as "The page Viewer allows direct access to page-level ratings from whatever page you are currently viewing. Here's how it works: From any page of the website, you simply launch a local version of the Page Viewer application. You then login with your password. And finally, you tell the system what timeframe for which to analyze the

report" (Page 32). The examiner further notes that Page 48 clearly depicts a
screenshot of the Page Viewer.

Regarding claims 8, 19, and 30, **opinionlab** teaches a system, method, and
software comprising:
A) a first display of a time frame associated with the collected user feedback
information (Pages 28-30, 32, 48, and 70)
B) a second display providing an overview of the collected user feedback information
(Pages 28-30, 32, 48, and 70); and
C) a third display of one or more sliding bars, correspond to a particular type of
collected user feedback information and indicate percentages of negative, neutral, and
positive user feedback information of the corresponding particular type of collected user
feedback information (Pages 28-30, 32, 48, and 70).

The examiner notes that the screenshot on Page 48 clearly shows the exact
features claimed in this limitations (The screenshot is that of Page Viewer). Specifically,
the time frame is on the upper-right hand corner. The overview is beneath the time
frame window. The sliding bars are beneath the overview.

Regarding claims 9, 20, and 31, **opinionlab** teaches a system, method, and
software comprising:
A) a display window operable to display one or more of: one or more charts of one or
more general or specific user ratings of the particular web page (Pages 28-30, 32-33,
48, and 70);
B) user comments regarding the particular web page (Pages 28-30, 32-33, 48, and 70);
and
C) one or more survey displays of user answers to one or more explicit questions
regarding the particular web page (Pages 28-30, 32-34, 48, and 70).

The examiner notes that the screenshot on Page 48 clearly shows a chart which
displays specific user ratings for a web page. The examiner further notes that Page 33
clearly shows that Page Viewer allows for a website user to access specific comments

on a specific web page. The examiner further notes that Page 34 clearly shows the
ability to access survey responses from users.

Regarding claims 10, 21, and 32 **opinionlab** further teaches a system, method,
and software comprising:

A) wherein the input indicating a desire to access the collected information concerning
user interaction with the particular web page comprises entry of one or more particular
keystrokes using a keyboard (Page 26)

The examiner notes that the screenshot of Page 26 clearly shows that a user
must type in the user name and password to access desired usage reports.

Regarding claims 11, 22, and 33, **opinionlab** further teaches a system, method,
and software comprising:

A) the particular web page comprises a first web page (Pages 28-30);

B) the website comprises one or more other web pages in addition to the first web page
(Pages 28-30); and

C) the second software is further operable to: receive, from the website owner, a
specification of one or more of the other web pages (Pages 28-30); and

D) provide the website owner access from the first web page to collected information
concerning user interaction with the specified other web pages in addition to the
collected information concerning user interaction with the first web page (Pages 28-30).

The examiner notes that **opinionlab** teaches **"the particular web page
comprises a first web page"** as "in the O-Metric Report, you can list every page of
your website that received a rating and sort them by the number of ratings received and
the average rating for the page" (Page 29). The examiner further notes that **opinionlab**
teaches **"the website comprises one or more other web pages in addition to the
first web page"** as in the O-Metric Report, you can list every page of your website that
received a rating and sort them by the number of ratings received and the average
rating for the page" (Page 29). The examiner further notes that **opinionlab** teaches
"the second software is further operable to: receive, from the website owner, a

specification of one or more of the other web pages" as "You can also analyze the rating distribution for any page of your website" (Page 30). The examiner further notes that **opinionlab** teaches **"provide the website owner access from the first web page to collected information concerning user interaction with the specified other web pages in addition to the collected information concerning user interaction with the first web page"** as "You can also analyze the rating distribution for any page of your website" (Page 30).

Regarding claim 12, **opinionlab** teaches a method comprising:

A) collecting information concerning user interaction with a particular web page of a website (Pages 24, 28, and 36); and

B) receiving, from a website owner who has accessed the particular web page using a web browser while the particular web page is viewable within a browser window of the web browser, input indicating a desire to access the collected information concerning user interaction with the particular web page (Pages 28-30, 32, 48, and 70);

C) determining whether the website owner is authorized to access the collected information concerning user interaction with the particular web page (Page 26); and

D) if the website owner is authorized to access the collected information concerning user interaction with the particular web page: generating a viewable user interface providing substantially real-time access to the collected information concerning user interaction with the particular web page (Pages 24, 28-30, 32, 48, and 70); and

E) to provide the website owner substantially real-time access to the collected information concerning user interaction with the particular web page, presenting the viewable user interface to the website owner in substantially real-time in response to the input received from the website owner while the particular web page was viewable within the browser window of the web browser (Pages 28-30, 32, 48, and 70).

The examiner notes that **opinionlab** teaches **"collecting information concerning user interaction with a particular web page of a website"** as "The purpose of the 24/7 Metric is...To allow multiple stakeholders to analyze real-time, continuous user feedback at the page-level in order to optimize the user experience"

(Page 24) and "the O-Metric Report provides a scan of your website. The graphic shows each page of the website as a line on the graph. Green lines represent web pages that have been rated positively and red lines represent web pages that have been rated negatively" (Page 28). The examiner further notes that **opinionlab** teaches **"receiving, from a website owner who has accessed the particular web page using a web browser while the particular web page is viewable within a browser window of the web browser, input indicating a desire to access the collected information concerning user interaction with the particular web page"** as "The page Viewer allows direct access to page-level ratings from whatever page you are currently viewing. Here's how it works: From any page of the website, you simply launch a local version of the Page Viewer application. You then login with your password. And finally, you tell the system what timeframe for which to analyze the report" (Page 32). The examiner further notes that Page 48 clearly depicts a screenshot of the Page Viewer. The examiner further notes that **opinionlab** teaches **"determining whether the website owner is authorized to access the collected information concerning user interaction with the particular web page"** as "you first need to log-in to OpinionLab's O'Zone, OpinionLab's report generating system" (Page 26). The examiner further notes that **opinionlab** teaches **"if the website owner is authorized to access the collected information concerning user interaction with the particular web page: generating a viewable user interface providing substantially real-time access to the collected information concerning user interaction with the particular web page"** as "The tools then generates real-time reports of page specific ratings and comments" (Page 48) The examiner further notes that **opinionlab** teaches **"to provide the website owner substantially real-time access to the collected information concerning user interaction with the particular web page, presenting the viewable user interface to the website owner in substantially real-time in response to the input received from the website owner while the particular web page was viewable within the browser window of the web browser"** as "The page Viewer allows direct access to page-level ratings from whatever page you are currently viewing. Here's how it works: From any page of the

website, you simply launch a local version of the Page Viewer application. You then login with your password. And finally, you tell the system what timeframe for which to analyze the report" (Page 32).

Regarding claim 23, **opinionlab** teaches software comprising:
A) receive, from a website owner who has accessed a particular web page of a website and using a web browser while the particular web page is viewable within a browser window of the web browser, input indicating a desire to access collected information concerning user interaction with the particular web page (Pages 28-30, 32, 48, and 70);
B) determine whether the website owner is authorized to access the collected information concerning user interaction with the particular web page (Page 26); and
C) if the website owner is authorized to access the collected information concerning user interaction with the particular web page: generate a viewable user interface providing substantially real-time access to the collected information concerning user interaction with the particular web page (Pages 24, 28-30, 32, 48, and 70); and
D) to provide the website owner substantially real-time access to the collected information concerning user interaction with the particular web page, present the viewable user interface to the website owner in substantially real-time in response to the input received form the website owner while the particular web page was viewable within the browser window of the web browser (Pages 28-30, 32, 48, and 70).

The examiner notes that **opinionlab** teaches **"receive, from a website owner who has accessed a particular web page of a website and using a web browser while the particular web page is viewable within a browser window of the web browser, input indicating a desire to access collected information concerning user interaction with the particular web page"** as "The page Viewer allows direct access to page-level ratings from whatever page you are currently viewing. Here's how it works: From any page of the website, you simply launch a local version of the Page Viewer application. You then login with your password. And finally, you tell the system what timeframe for which to analyze the report" (Page 32). The examiner further notes that Page 48 clearly depicts a screenshot of the Page Viewer. The examiner further

notes that **opinionlab** teaches **"determine whether the website owner is authorized to access the collected information concerning user interaction with the particular web page"** as "you first need to log-in to OpinionLab's O'Zone, OpinionLab's report generating system" (Page 26). The examiner further notes that **opinionlab** teaches **"if the website owner is authorized to access the collected information concerning user interaction with the particular web page: generate a viewable user interface providing substantially real-time access to the collected information concerning user interaction with the particular web page"** as "The tools then generates real-time reports of page specific ratings and comments" (Page 48) The examiner further notes that **opinionlab** teaches **"to provide the website owner substantially real-time access to the collected information concerning user interaction with the particular web page, present the viewable user interface to the website owner in substantially real-time in response to the input received form the website owner while the particular web page was viewable within the browser window of the web browser"** as "The page Viewer allows direct access to page-level ratings from whatever page you are currently viewing. Here's how it works: From any page of the website, you simply launch a local version of the Page Viewer application. You then login with your password. And finally, you tell the system what timeframe for which to analyze the report" (Page 32).

Regarding claim 34, **opinionlab** teaches a system comprising:
A) means for collecting information concerning user interaction with a particular web page of a website (Pages 24, 28, and 36); and
B) means for receiving, from a website owner who has accessed the particular web page using a web browser and while the particular web page is viewable within a browser window of the web browser, input indicating a desire to access the collected information concerning user interaction with the particular web page (Pages 28-30, 32, 48, and 70);

C) means for determining whether the website owner is authorized to access the collected information concerning user interaction with the particular web page (Page 26); and

D) means for, if the website owner is authorized to access the collected information concerning user interaction with the particular web page: generating a viewable user interface providing substantially real-time access to the collected information concerning user interaction with the particular web page (Pages 24, 28-30, 32, 48, and 70); and

E) to provide the website owner substantially real-time access to the collected information concerning user interaction with the particular web page, presenting the viewable user interface to the website owner in substantially real-time in response to the input received from the website owner while the particular web page is viewable within the browser window of the web browser (Pages 28-30, 32, 48, and 70).

The examiner notes that **opinionlab** teaches **"means for collecting information concerning user interaction with a particular web page of a website"** as "The purpose of the 24/7 Metric is...To allow multiple stakeholders to analyze real-time, continuous user feedback at the page-level in order to optimize the user experience" (Page 24) and "the O-Metric Report provides a scan of your website. The graphic shows each page of the website as a line on the graph. Green lines represent web pages that have been rated positively and red lines represent web pages that have been rated negatively" (Page 28). The examiner further notes that **opinionlab** teaches **"means for receiving, from a website owner who has accessed the particular web page using a web browser and while the particular web page is viewable within a browser window of the web browser, input indicating a desire to access the collected information concerning user interaction with the particular web page"** as "The page Viewer allows direct access to page-level ratings from whatever page you are currently viewing. Here's how it works: From any page of the website, you simply launch a local version of the Page Viewer application. You then login with your password. And finally, you tell the system what timeframe for which to analyze the report" (Page 32). The examiner further notes that Page 48 clearly depicts a screenshot of the Page Viewer. The examiner further notes that **opinionlab** teaches

"means for determining whether the website owner is authorized to access the collected information concerning user interaction with the particular web page" as "you first need to log-in to OpinionLab's O'Zone, OpinionLab's report generating system" (Page 26). The examiner further notes that **opinionlab** teaches **"means for, if the website owner is authorized to access the collected information concerning user interaction with the particular web page: generating a viewable user interface providing substantially real-time access to the collected information concerning user interaction with the particular web page"** as "The tools then generates real-time reports of page specific ratings and comments" (Page 48) The examiner further notes that **opinionlab** teaches **"to provide the website owner substantially real-time access to the collected information concerning user interaction with the particular web page, presenting the viewable user interface to the website owner in substantially real-time in response to the input received from the website owner while the particular web page is viewable within the browser window of the web browser"** as "The page Viewer allows direct access to page-level ratings from whatever page you are currently viewing. Here's how it works: From any page of the website, you simply launch a local version of the Page Viewer application. You then login with your password. And finally, you tell the system what timeframe for which to analyze the report" (Page 32).

15.   Claims 1-34 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention. The webpage http://www.opinionlab.com retrieved from the Internet Archive collectively on 06/05/2001 clearly depicts the present invention in the "24/7 metric" software (see pages 24-37 and page 70 for 24/7 metric descriptions and screenshots). Moreover, 24/7 Metric was for public sale (see Page 67 of the retrieved web page www.opinionlab.com "24/7 Metric: Purchased as an annual subscription, the 24/7 Metric is a management tool used to diagnose problems...24/7 Metric" (Page 67). Furthermore, 24/7 incorporates "O, Scan Graphic, Page Viewer, Comment List and Export data" (Page 70). Moreover, the screenshots of 24/7 metric clearly are the same as that of the screenshots of the Figures for the instant application. For example, Page 4 (which depicts "O") is the same as Figures 3 and 4 of the instant application. Page 34

clearly is the same as Figure 6 of the instant application. Page 28 clearly is the same as Figure 8a of the instant application. Page 28 clearly is the same as Figure 8a of the instant application. Pages 32-33 (which cannot display a screenshot of Page Viewer) and Page 48 (which does) clearly is the same as Figure 9.

Response to Arguments

16.   Applicant's arguments with respect to claims 1-34 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

17.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 6,792,458 issued to **Muret et al.** on 14 September 2004. The subject matter disclosed therein is pertinent to that of claims 1-34 (e.g., methods to provide web summary reports).

U.S. Patent 6,260,064 issued to **Kurzrok** on 10 July 2001. The subject matter disclosed therein is pertinent to that of claims 1-34 (e.g., methods to provide web summary reports).

U.S. Patent 6,606,657 issued to **Zilberstein et al.** on 12 August 2003. The subject matter disclosed therein is pertinent to that of claims 1-34 (e.g., methods to provide web summary reports).

U.S. Patent 6,393,479 issued to **Glommen et al.** on 21 May 2002. The subject matter disclosed therein is pertinent to that of claims 1-5, 10-16, 21-27, and 32-34 (e.g., methods to analyze and report website traffic).

U.S. PGPUB 2002/0087679 issued to **Pulley et al.** on 04 July 2002. The subject matter disclosed therein is pertinent to that of claims 1-34 (e.g., methods to monitor website activity).

Article entitled "dna: Opinionlab", dated 5/5/2001 by: **dna**. The subject matter disclosed therein is pertinent to that of claims 1-34 (e.g., methods to monitor website activity).

Article entitled "OpinionLab: Optimize user experience and track user satisfaction using OnlineOpinion", dated 07/23/2002 by: **OpinionLab**. The subject

matter disclosed therein is pertinent to that of claims 1-34 (e.g., methods to monitor website activity).

Contact Information

18.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mahesh Dwivedi whose telephone number is (571) 272-2731. The examiner can normally be reached on Monday to Friday 8:20 am – 4:40 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tim Vo can be reached (571) 272-3642. The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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July 12, 2007

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